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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2011-721

12 **JOEL ANTONIO CALDERON**
8364 Berman Walk Way
13 Citrus Heights, CA 95610
14 **Registered Nurse License No. 571225**

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
20 Department of Consumer Affairs.

21 **Registered Nurse License**

22 2. On or about August 30, 2000, the Board issued Registered Nurse License Number
23 571225 to Joel Antonio Calderon ("Respondent"). The registered nurse license was in full force
24 and effect at all times relevant to the charges brought herein and will expire on April 30, 2012,
25 unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
28 part, that the Board may discipline any licensee, including a licensee holding a temporary or an

inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct...,

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Convictions)**

3 8. Respondent has subjected his license to discipline pursuant to Code section 2761,
4 subdivision (f), in that Respondent has been convicted of the following crimes that are
5 substantially related to the qualifications, functions, and duties of a registered nurse:

6 a. On or about September 13, 2010, in the Superior Court, County of Sacramento,
7 California, in the matter entitled *People vs. Joel Calderon*, 2010, Case No. 10M04768,
8 Respondent was convicted by the court, following his plea of nolo contendere to a violation of
9 Penal Code section 236 (false imprisonment), a misdemeanor. The circumstances of the crime
10 are that on or about May 22, 2010, Respondent was arrested following a physical altercation with
11 his cohabitant.

12 b. On or about September 16, 2003, in the Placer County Superior Court, County of
13 Placer, California, in the matter entitled *People vs. Joel Antonio Calderon*, 2003, Case No. 62-
14 036104, Respondent was convicted by the court, following his plea of nolo contendere to a
15 violation of Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol),
16 a misdemeanor. The circumstances of the crime are that on or about May 19, 2003, Respondent
17 was arrested for driving under the influence of alcohol. At the time of his arrest, Respondent had
18 his two minor children in the vehicle with him. Respondent's blood alcohol level measured
19 .15%.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Conviction of a Crime Involving Alcohol)**

22 9. Respondent has subjected his license to discipline pursuant to Code section 2761,
23 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
24 subdivision (c), in that Respondent has been convicted of a crime involving the consumption of
25 alcohol, as more particularly set forth in paragraph 8, subparagraph b, above.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Use Alcohol to an Extent or in a Manner Dangerous or Injurious)**

3 10. Respondent has subjected his license to discipline pursuant to Code section 2761,
4 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
5 subdivision (b), in that on or about May 19, 2003, Respondent used alcohol to an extent or in a
6 manner dangerous or injurious to himself or others, as more particularly set forth in paragraph 8,
7 subparagraph b, above.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 571225, issued to Joel
12 Antonio Calderon;

13 2. Ordering Joel Antonio Calderon to pay the Board of Registered Nursing the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3; and,

16 3. Taking such other and further action as deemed necessary and proper.
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18

19 DATED: 2/23/11

20 *Louise R. Bailey*
21 LOUISE R. BAILEY, M.ED., RN
22 Executive Officer
23 Board of Registered Nursing
24 Department of Consumer Affairs
25 State of California
26 Complainant
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